



FACT SHEET

Access Authority of Long Term Care Ombudsmen

The federal government established the Long Term Care Ombudsman program to help residents of long term care facilities who have concerns and complaints about their care or services they receive. It is the Ombudsman's role to help residents resolve their concerns regardless of how serious the complaint. To carry out this role, the Ombudsman has been granted access authority to long term care facilities in order to meet with residents.

The federal Older Americans Act, which establishes the nationwide network of Long Term Care Ombudsman programs, charges local ombudsmen to have **regular** and **timely contact** with residents and requires each state to **ensure** that the local ombudsmen have **access to long term care facilities and residents**. [42 USC 3058g]

Ombudsmen regularly visit nursing homes, meet with residents, and assist residents resolve concerns about their care. Similarly, they are authorized to enter Adult Foster Care Homes and Homes for the Aged to meet with residents. And although the Ombudsman Program may not have the resources to make regular visits to unlicensed board and care homes and assisted living facilities, ombudsmen are available to work with residents and family members to resolve complaints.

Statutory Authority

The Older Americans Act defines "long term care facility" as nursing homes certified for Medicare and/or Medicaid, state licensed board and care facilities, or any similar adult care homes.

The Administration on Aging has interpreted this definition to mean that under federal law ombudsmen are authorized "...to investigate complaints made by or on behalf of residents of nursing homes, board and care homes, adult residential care facilities, assisted living facilities and any other type of congregate adult care home, the majority of whose residents are age 60 and above, whether or not these facilities are certified to participate in Medicare and Medicaid and/or are regulated by the State."

Access to Residents [42 USC 3058g(b)] [MCL 400.586i]

Ombudsmen have the authority to:

- **Enter any facility** and identify himself or herself.
- **Seek consent from a resident** to communicate privately and without restriction with that resident.
- **Communicate privately and without restrictions with any resident** who consents to communications.

- **Observe all resident areas** of the facility except the living area of any resident who protests the observation.

When Does An Ombudsman Have Access?

[MCL 400.586i]

Ombudsmen can enter **any long term care facility from 8:00 am to 8:00 pm each day.**

Trained volunteer ombudsmen have access to nursing homes during regular visiting hours, and to Homes for the Aged, hospital long term care units, and Adult Foster Care homes from 11:00 am to 7:00 pm.

Access to Records [42 USC 3058g(b)(1)B)(C)(D)]

Ombudsmen have access to medical and social records of a resident if:

- the ombudsman has the permission of the resident, or the legal representative of the resident; or
- the resident is unable to consent to the review and has no legal representative.

Ombudsmen also have access to a resident's records as is necessary to investigate a complaint if:

- a legal guardian of the resident refuses to give the permission;
- an ombudsman has reasonable cause to believe that the guardian is not acting in the best interests of the resident; and
- the ombudsman has approval from the State Long Term Care Ombudsman.

Ombudsmen also have access to:

- the administrative records, policies, and documents, to which the residents have, or the general public has access, of long-term care facilities; and
- all licensing and certification records maintained by the State with respect to long-term care facilities (and copies as requested).

For more information please call our toll free number:

1-866-485-9393